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Sen. Nass and Rep. Kremer Issue Open Letter to Wisconsin's Parents and Children

Madison, WI – Senator Stephen Nass (R-Whitewater) and Representative Jesse Kremer (R-Kewaskum), authors of 2015 AB 469, the “Student Privacy Protection Act,” released an open letter to Wisconsin’s parents and children following recently released, joint guidance on transgender students from the federal Department of Education and Department of Justice.

Wisconsin Parents and Children:

Two weeks ago, the federal Department of Education (ED) and Department of Justice (DOJ) issued guidance containing example policies regarding who is allowed to use changing facilities in schools that accept federal aid. The documents include direction on school dress code policies, who is allowed to play on sex-segregated athletic teams and how to ensure that a teacher is using the correct pronouns for a student based on the gender they identify with, rather than their gender at birth.

This guidance is another blatant attempt to wrest power from states and local school boards, ignoring the clear separation of powers enumerated in the Tenth Amendment to the U.S. Constitution. "The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people."

The federal government’s May 2016 guidance, “Examples of Policies and Emerging Practices for Supporting Transgender Students,” went so far as to say that:

"Students shall have access to use facilities that correspond to their gender identity as expressed by the student and asserted at school, irrespective of the gender listed on the student’s records, including but not limited to locker rooms."

Clarity is necessary because the new federal policies contradict state statutes. These directives are not only a clear violation of the 10th Amendment, but also a violation of current Wisconsin law. Wis. Stat. 120.12(12) requires school boards to "Provide and maintain enough suitable and separate toilets and other sanitary facilities for both sexes at each school."

The power to make these policies must remain at the local level, with guidance from the state. As a state, we will continue to push for minimal guidance for our schools, allowing locally elected school boards – entities created by the state – to do their job promoting safe, harassment-free learning environments for our children.



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However, there must be some uniformity and guidance for our schools. For example, if a multi-stall, unisex facility is utilized, the units must be completely private and any “open bay” facility will be authorized for use by only students with the same anatomical body parts. Also, any student uncomfortable with the school's arrangement can discuss the matter with school officials and be provided an alternative accommodation.

Late last fall, the Wisconsin legislature took up AB 469 in the Assembly Education Committee. This bill addressed the federal government's abusive overreach and heavy handed approach to school districts across the nation, including threats of funding cuts. A similar bill will be brought up again in the next legislative session beginning in January.

Protecting public safety is our priority. Governor Walker recently signed into law several bi-partisan bills to protect women and children: 2015 Act 80, making up-skirting a felony, Act 370, criminalizing parental use of nude images or videos of children for commercial means or sexual gratification, and Act 369, “Alycia’s Law,” allowing Wisconsin’s Attorney General the ability to locate the IP address of a computer containing child pornography with greater ease. How, then, are we to turn a blind eye when children with different anatomy will be allowed to change in an open locker room within mere feet of one another – something that is potentially disorderly conduct or indecent exposure?

The Wisconsin Legislature will take a stand against the bullying and intimidation tactics of the federal government, ensuring that state and local rights are maintained by making the privacy and safety of Wisconsin students of utmost importance.

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